

Exhibit 365

(Filed Under Seal)

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 Civil Action File No. 14-CV-7473
5 -----)

6 THE PEOPLE OF THE STATE OF NEW YORK, by
7 and through ERIC T. SCHNEIDERMAN,
8 Attorney General of the State of New York,

9 Plaintiff,

10 - against -

11 ACTAVIS, PLC and FOREST LABORATORIES,
12 LLC,
13 Defendants.
14 -----)

15 **HIGHLY CONFIDENTIAL**

16 November 2, 2014
17 9:48 a.m.

18 Videotaped Deposition of ROBERT
19 A. STEWART, pursuant to Notice, held at
20 the offices of White & Case LLP, 1155
21 Avenue of the Americas, New York, New
22 York, before Debra Stevens, a Registered
23 Professional Reporter and Notary Public of
24 the State of New York.
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212-267-6868

516-608-2400

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1 R. Stewart - Highly Confidential
 2 So, a lot could be that
 3 packaging run and you could have multiple
 4 lots that are tied back to one batch.
 5 Q. So would one example of two lots
 6 tied to a batch be if some of the pills or
 7 tablets were sold in bottles of 30 and
 8 others a bottle of 60, for example?
 9 A. Correct.
 10 Q. I see.
 11 Now, between batches, I assume
 12 one has to clean the equipment carefully
 13 before using that equipment for another
 14 product?
 15 A. Correct.
 16 Q. You made some reference to that
 17 earlier. Is that a complicated process?
 18 A. Depends on the product, but it
 19 could be.
 20 Q. Does that typically take days or
 21 weeks or a matter of hours to do, or does
 22 it depend?
 23 A. In some cases, it could be
 24 hours. If you are changing over from the
 25 same type of product from one lot to the

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1 R. Stewart - Highly Confidential
 2 of Robert Stewart, marked for
 3 identification, as of this date.)
 4 MR. CARNEY: Jeremy, we'll
 5 designate the transcript highly
 6 confidential pursuant to the terms of
 7 the protective order/stipulation.
 8 MR. KASHA: Okay.
 9 Q. Have you seen this document
 10 before?
 11 A. I have.
 12 Q. What is it?
 13 A. It is a declaration.
 14 Q. Did you write the declaration?
 15 MR. CARNEY: You should not
 16 disclose any communications you had
 17 with counsel, but you can answer that
 18 question otherwise.
 19 A. I worked with counsel to
 20 formulate this declaration.
 21 Q. Let's start with paragraph 2,
 22 the summary of the testimony. Do you have
 23 a sense of what you are going to be
 24 testifying about at the preliminary
 25 injunction hearing?

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1 R. Stewart - Highly Confidential
 2 next, that is just what is considered a
 3 minor cleaning, and it is not as invasive.
 4 Other -- when you are going from
 5 one chemical to another chemical, could
 6 now be a major cleaning where you are
 7 stripping out everything within the rooms,
 8 the equipment. And that could be, you
 9 know, days for a cleaning.
 10 Q. And that is just part of the
 11 normal cost of doing business?
 12 A. Correct.
 13 Q. I am going to turn our attention
 14 to your declaration, but if either you,
 15 counsel, the reporter or the videographer
 16 would like a short break, we can take a
 17 short break.
 18 MR. CARNEY: Are you okay?
 19 THE WITNESS: I am okay.
 20 MR. KASHA: We'll mark as
 21 Stewart 1 a document titled,
 22 "Declaration of Robert Stewart." It
 23 is three pages long and was apparently
 24 executed on October 21, 2014.
 25 (Exhibit Stewart 1, Declaration

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1 R. Stewart - Highly Confidential
 2 MR. CARNEY: I am going to
 3 instruct him not to testify to the
 4 extent it discloses attorney work
 5 product and attorney-client
 6 communications.
 7 Q. Can you answer, mindful of your
 8 counsel's instruction?
 9 MR. CARNEY: I am instructing
 10 you not to answer on that ground.
 11 Q. But you do expect that you may
 12 testify about the topics covered in this
 13 declaration?
 14 A. It's a possibility.
 15 Q. Once again, I am not asking
 16 about any communications with counsel, but
 17 do you have any expectation that you may
 18 testify about anything that is not
 19 included in this declaration?
 20 MR. CARNEY: You should not
 21 disclose any communications with
 22 counsel. If you can answer it
 23 otherwise, you may do so.
 24 A. I am not going to answer.
 25 Q. Let's take a look at the first

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1 R. Stewart - Highly Confidential
 2 bullet point of paragraph 2. Just for
 3 clarity of the record -- and I won't make
 4 you do this with the whole declaration --
 5 but can you read that bullet point out
 6 loud?

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15 Q. Thank you.
 16 I am going to ask some questions
 17 about that before we go on, if that is
 18 okay with you.

19 A. Okay.

20 Q. We were just talking about
 21 batches. Now that we are talking
 22 specifically about Namenda XR, can you
 23 tell me how big the batches are?

24 A. I don't recall what the batch
 25 size is offhand.

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1 R. Stewart - Highly Confidential
 2 Q. I assume, based on all the talk
 3 from earlier about the FDA rules, you
 4 can't just switch from one to the other;
 5 you can't make IR as a capsule and XR as a
 6 tablet, right?

7 A. That's correct.

8 Q. Where is Namenda XR
 9 manufactured?

10 A. In Ireland.

11 Q. Only in Ireland?

12 A. Correct.

13 Q. Could you make it anywhere else?

14 A. Not today.

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1 R. Stewart - Highly Confidential

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13 Q. Okay. I am going to come back
 14 to that, but let's just clarify something
 15 first.

16 Namenda XR, is that a tablet or
 17 capsule or something else?

18 A. Namenda XR is a capsule.

19 Q. Is it always a capsule?

20 A. It is a capsule.

21 Q. Do you sell it in any other
 22 form?

23 A. XR? No.

24 Q. Is Namenda IR a capsule?

25 A. No. It is a tablet.

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1 R. Stewart - Highly Confidential

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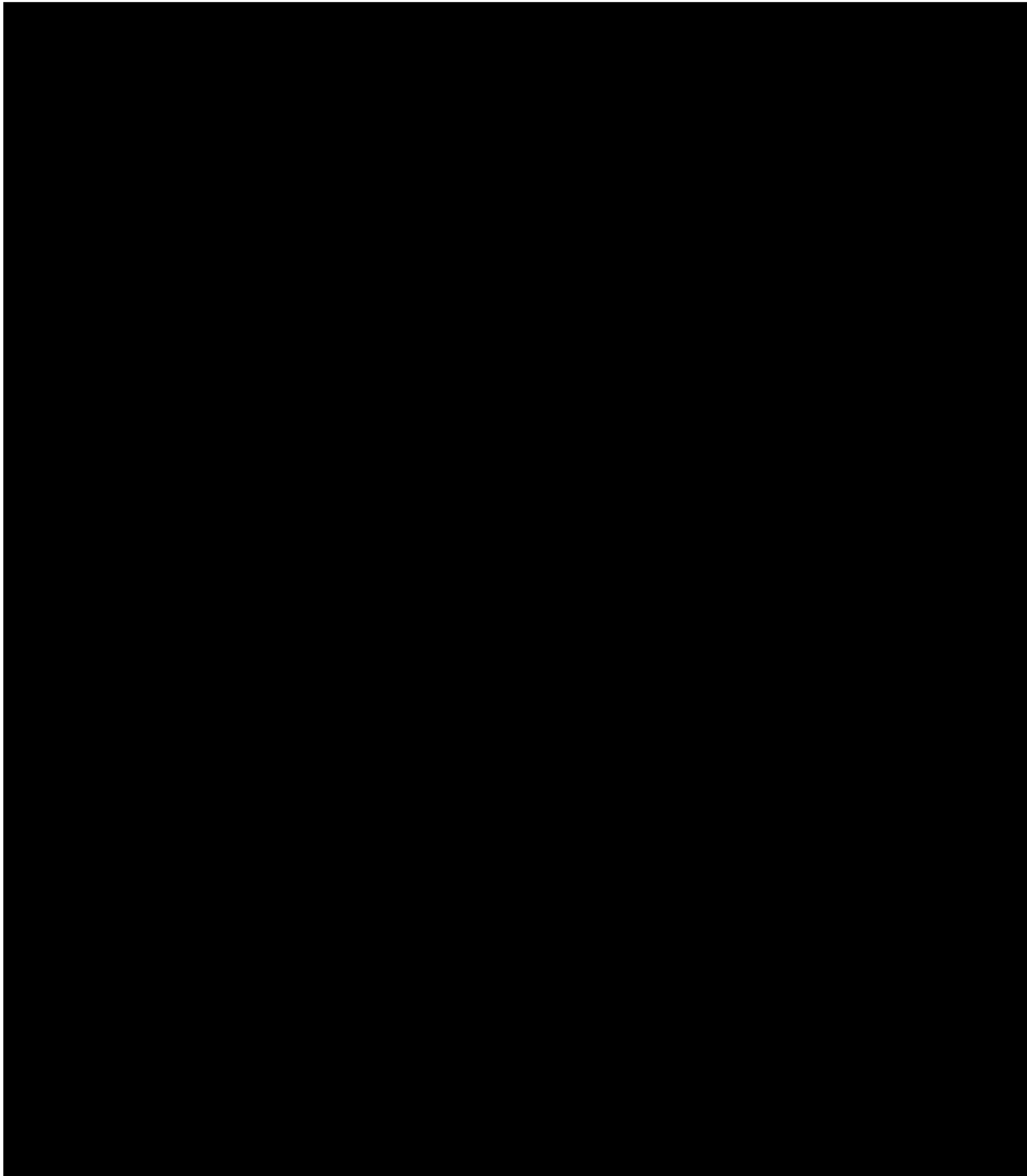
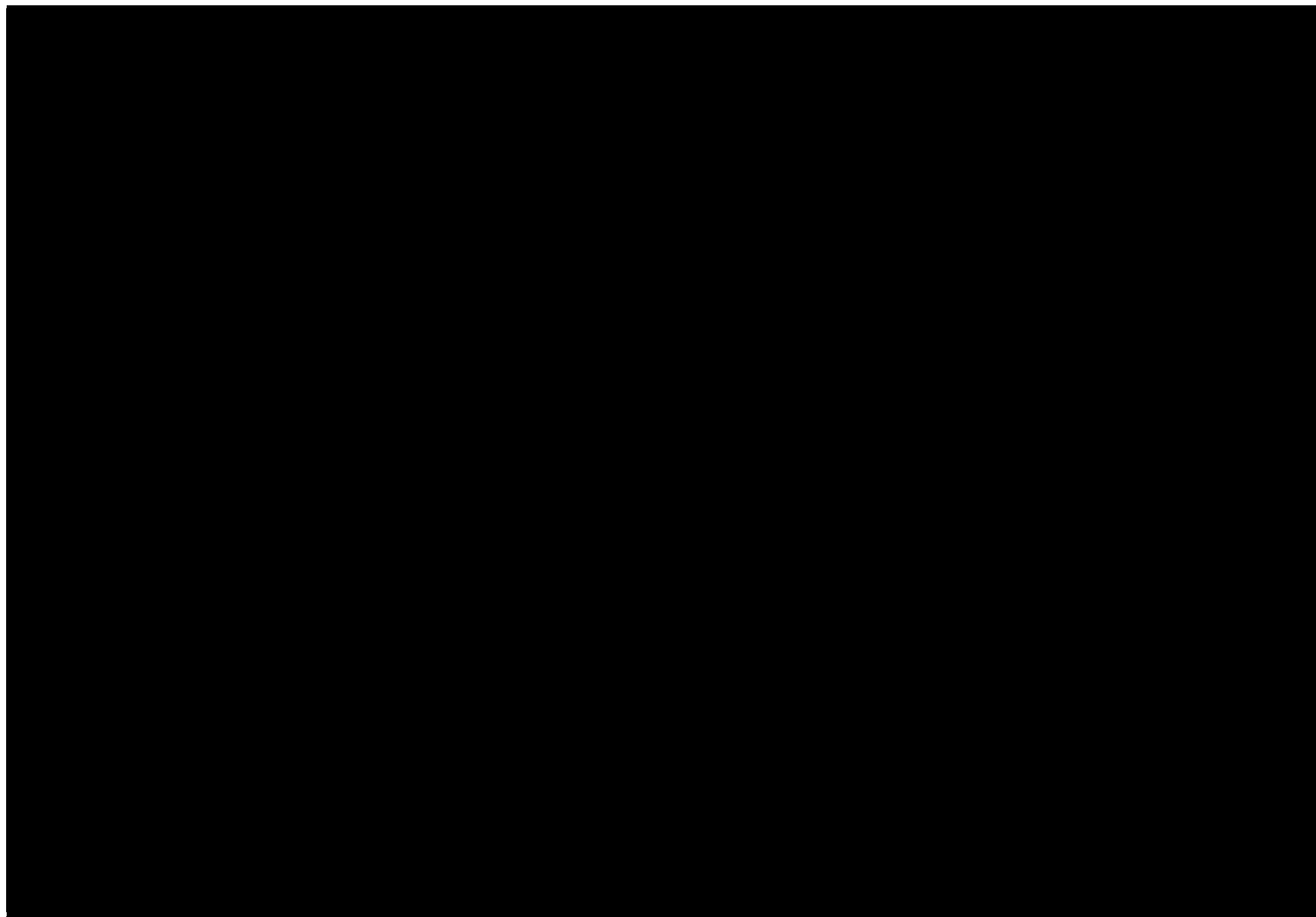
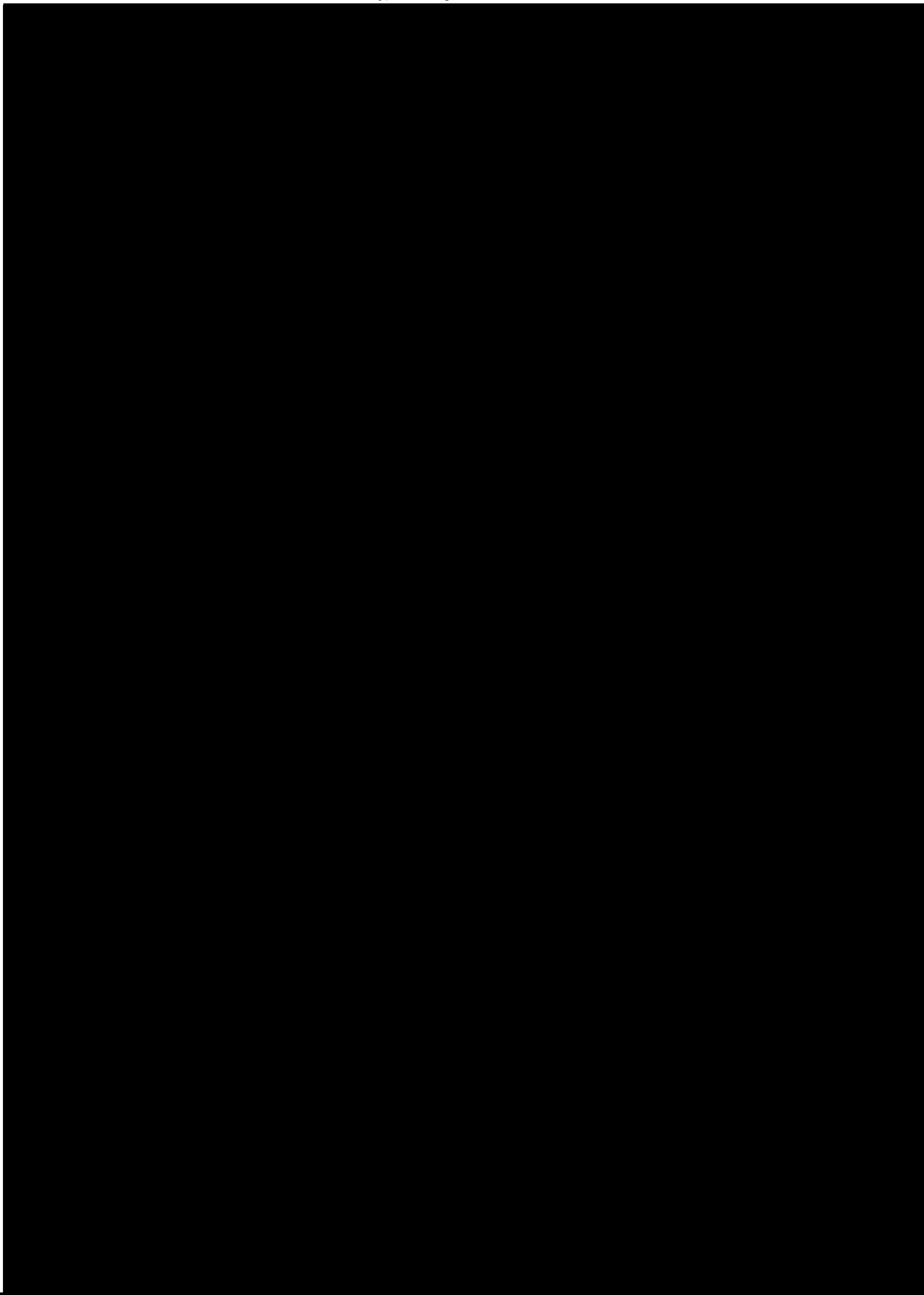

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